City of Newport Beach

3300 Newport Boulevard Newport Beach, California 92663



MARINA PARK and TAXABLE POSSESSORY INTERESTS

June 2009

Residents who rent the City-owned coaches at Marina Park may be obligated to pay "Possessory Interest" Taxes to the County of Orange. Please consult with your tax advisor or confer with the Orange County Assessor's office or the Orange County Treasurer- Tax Collector for more information (see web links below) as to your specific tax liability. In offering this information, the City is not providing tax advice specific to your situation.

http://www.oc.ca.gov/assessor/ http://tax.ocgov.com/tcweb/search_page.asp

The below information (from the Assessor's Office of the County of Los Angeles, with minor modifications) may be helpful to you in understanding how possessory interest taxes are levied, and who is responsible for paying them.

Taxable Possessory Interest (PI) - What is It?

When a person or entity leases, rents, or uses real estate owned by a government agency for its exclusive use, a taxable possessory interest occurs. The taxation of this interest is similar to the taxation of owners of privately owned property. However, a holder of a possessory interest frequently pays significantly less property tax than the private owner of a similar property.

Examples of Possessory Interests

Taxable PI's are created by almost any use of government-owned real property including the following examples.

Boat slips on public lakes, rivers, or ocean marinas

Mini-storage facilities under freeways

Private walkways above city streets

Airplane tie-downs and hangars at county airports

Cattle grazing rights on government land

Private entities leasing or renting government-owned buildings, such as mobile homes.

Concession spaces at convention centers and fairgrounds

Cabins and campgrounds on U.S. Forestry-owned lands

Ski resorts on public lands

Pro shops or golf operators at a public golf course

Terminal and cargo spaces at airports
Container operations at harbors
Cable television right-of-way easements
Retail business operations in a publicly-owned building
Rental car facilities at airport
Farming on community college district land
Mining operations on public land
Privately owned medical clinics operating in a county hospital
Adult/night schools operating in a public school
Christmas tree lots on a freeway underpass
Stables on river annex
Concert or air show on public land
Employee housing on tax-exempt land

Possessory Interest Property Tax

Possessory interest tax helps pay the holder's fair share of services and benefits that owners of similar taxable properties enjoy. These services and benefits include fire and police protection, schools, and local government.

The person or entity in possession of the property on the lien date (January 1) is liable for the entire subsequent fiscal year's taxes. Unfortunately, no provision is made for the Assessor to prorate the taxes if the possessory interest is terminated after the lien date.

Assessor's Responsibility

By law, every governmental agency in the county must respond to the Assessor's annual request for information. The information assists the Assessor in conducting fair and accurate possessory interest assessments.

Valuing Taxable Possessory Interest

A base year value is established for taxable possessory interests upon a change in ownership or completion of new construction under the guidelines of Proposition 13.² This value, by law, will only increase by a maximum of 2% per year, until a new re-appraisable event (change of ownership or completion of new construction) occurs, or the property suffers a decline in value (Proposition 8).

The valuation of possessory interests is different from other forms of property tax appraisal in two ways:

- 1. Only the rights held by the private user are valued.
- 2. The Assessor must not include the value of the lessor's retained rights in the property or any rights that will revert back to the public owner (the "reversionary interest") at the end of the lease.

As a result, possessory interest assessments are frequently less than the assessments of similar

privately-owned property.

¹For an expanded definition see Revenue and Taxation (R&T) Code Section 61, 107-107.9, 480.6 and Property Tax Rules 20,21-22, and 27-28 available online at www.boe.ca.gov/info/links.htm.

²A change in ownership occurs when a possessory interest is created, assigned, or upon the expiration of the lease per Revenue & Taxation Code Section 61 available online at www.boe.ca.gov/info/links.htm.

³Base year value computation is fully explained in Property Tax Rule 21 available online at www.boe.ca.gov/info/links.htm.

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